©
GOVERNMENT OF KERALA
1967

Reg. No. K. 107

KERALA GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XII] Trivandrum, Thursday] 11th May 1967 / 21st Vaisakha 1889 No. 81

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 5377-H4|67|Law. *Dated, Trivandrum, 11th May, 1967/ 21st Vaisakha, 1889.*

The following Ordinance promulgated by the Governor on the 10th May, 1967, is hereby published for general information.

By order of the Governor,
P. K. LAKSHMANAN,
Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1967.

ORDINANCE No. 3 OF 1967

THE COCHIN ABKARI (EXTENSION AND AMENDMENT) ORDINANCE, 1967

Promulgated by the Governor of Kerala in the Eighteenth Year of the Republic of India.

An Ordinance to extend the Cochin Abkari Act, I of 1077 and the rules, orders and notifications made or issued thereunder to the areas of the State of Kerala where the said Act is not in force, and for matters connected therewith.

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Cochin Abkari (Extension and Amendment) Ordinance, 1967.

(2) It shall come into force at once.

2. *Extension of Cochin Act I of 1077 and the rules, orders and notifications thereunder to the whole of the State of Kerala.*—The Cochin Abkari Act, I of 1077 (hereinafter referred to as the principal Act), and all rules, orders and notifications made or issued thereunder and in force immediately before the commencement of this Ordinance, are hereby extended to, and shall be in force in, the areas of the State of Kerala, where the said Act was not in force immediately before such commencement.

3. *Amendment of preamble.*—In the preamble to the principal Act, for the words "Cochin State", the words "State of Kerala" shall be substituted.

4. *Substitution of "Government" for "Diwan".*—Throughout the principal Act, unless otherwise expressly provided, for the word "Diwan", the word "Government" shall be substituted.

5. *Amendment of section 1.*—In section 1 of the principal Act,—

(a) for the words "Cochin Abkari Act", the words "Abkari Act" shall be substituted;

(b) for the words "Cochin State", the words "State of Kerala" shall he substituted; and

(c) the third paragraph relating to "commencement" shall be omitted.

6. *Amendment of section 2.*—In section 2 of the principal Act,—

(a) in the opening paragraph, the words "in any Taluk or other local area" and "and all privileges with regard to Abkari Revenue, granted and enjoyed under any Theettooram or Proclamation or otherwise, shall be extinguished" shall be omitted;

(b) in the first proviso, the words "in any local area" shall be omitted and for the word "licenses" in both the places where it occurs, the words "licenses and privileges" shall be substituted.

7. *Amendment of section 3.*—In section 3 of the principal Act,—

(a) for clause (4), the following clause shall be substituted, namely:—

"(4) "Collector" means the Collector of a district and includes any other officer appointed by the Government to exercise the powers and perform the duties of a Collector under this Act.";

(b) clause (5) shall be omitted;

(c) in clause (7), for the words "Cochin Penal Code", the words "Indian Penal Code" shall be substituted;

(d) in the Explanation to clause (9), the word "Madras" shall be omitted;

(e) in clause (12), the word "Cochin", in both the places where it occurs and the words "by sea" shall be omitted;

(f) in sub-clause (iv) of clause (14), for the words "Cochin Dangerous Drugs Act", the words and figures "Dangerous Drugs Act, 1930" shall be substituted;

(g) for clauses (16) and (17), the following clauses shall be substituted, namely:—

"(16) "Import" means to bring into the State.

(17) "Export" means to take out of the State.";

(h) in clause (18), the word "Cochin" shall be omitted;

(i) after clause (23), the following clause shall be inserted, namely:—

"(24) "State" means the State of Kerala.".

8. *Amendment of section 4.*—In section 4 of the principal Act,—

(a) for the opening portion, the following shall be substituted, namely:—

"The Government may, by notification in the Gazette,—";

(b) in clause (f), for the words "Sirkar Officer", the words "Officer of Government" shall be substituted.

9. *Amendment of sections 5A, 17 and 71.*—In sections 5A, 17 and 71 of the principal Act, the word "Cochin", wherever it occurs, shall be omitted.

10. *Substitution of new sections for sections 6 and 7.*—For sections 6 and 7 of the principal Act, the following sections shall be substituted, namely:—

"6. *Import of liquor or intoxicating drugs.*—(1) No liquor or intoxicating drug shall be imported unless the permission of the Government is obtained for the importation of such liquor or intoxicating drug and unless the duties, taxes, fees and such other sums as are due to the Government under this Act, in respect of such liquor or intoxicating drug, have been paid.

(2) A permission granted by the Government under sub-section (1) shall be subject to such conditions and restrictions as the Government may think fit.

7. *Export of liquor or intoxicating drug.*—(1) No liquor or intoxicating drug shall be exported unless its export is permitted by the Government and unless (a) the duties, taxes, fees and such other sums as are due to the Government under this Act, in respect of such liquor or intoxicating drug, have been paid; or (b) a bond for such payment on its exportation or re-exportation has been executed.

(2) A permission granted by the Government under sub-section (1) shall be subject to such conditions and restrictions as the Government may think fit.".

11. *Omission of section 8.*—Section 8 of the principal Act shall be omitted.

12. *Amendment of section 10.*—In section 10 of the principal Act, the word "Sirkar" shall be omitted.

13. *Amendment of section 13-A.*—In section 13A of the principal Act, for the words "he may prescribe", the words "the Government may prescribe" shall be substituted.

14. *Insertion of new sections 15A and 15B.*—After section 15 of the principal Act, the following sections shall be inserted, namely:—

"15A. *Consumption or use of liquor by persons under the age of 18 years prohibited.*—No person under the age of 18 years shall consume or use any liquor.

15B. *Sale of liquor to persons under 18 years of age prohibited.*—No person licensed to sell liquor and no person in

the employee of such licensed person or acting with the express or implied permission of such licensed person on his behalf shall sell or deliver any liquor to any person under the age of eighteen years.".

15. *Amendment of section 23.*—In section 23 of the principal Act, for the word "Peishkar", wherever it occurs, the word "Collector" shall be substituted.

16. *Amendment of section 26.*—In section 26 of the principal Act, for clause (c), the following clause shall be substituted, namely:—

"(c) if the holder thereof is convicted of any offence against this Act or of any cognisable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930, or under the Trade and Merchandise Marks Act, 1958, or under sections 478 to 489 of the Indian Penal Code; or".

17. *Amendment of sections 28 and 72.*—In sections 28 and 72 of the principal Act, for the word "Sirkar", wherever it occurs, the word "Government" shall be substituted.

18. *Amendment of section 29.*—In sub-section (2) of section 29 of the principal Act,—

(a) in sub-clause (1) of clause (l), for the words "Cochin State", the words "the State" shall be substituted;

(b) in clause (r), for the words and figures "Cochin Contract Act, XXIII of 1112", the words and figures "Indian Contract Act, 1872" shall be substituted.

19. *Amendment of sections 36, 43, 50 and 51.*—In sections 36, 43, 50 and 51 of the principal Act, for the words "Code of Criminal Procedure", the words and figures "Code of Criminal Procedure, 1898" shall be substituted.

20. *Amendment of section 38.*—In section 38 of the principal Act, for the words "Sirkar officer", the words "Officer of Government" shall be substituted.

21. *Amendment of section 55A.*—In section 55A of the principal Act, for the words "British India", the words "the State" shall be substituted.

22. *Amendment of section 57.*—In section 57 of the principal Act,—

(a) in clause (a), for the words and figures "section 248 of the Cochin Penal Code", the words and figures "section 272 of the Indian Penal Code" shall be substituted;

(b) in clause (c), for the words and figures "using a false trade mark with intent to deceive or injure any person under section 462 of the Cochin Penal Code", the words and

figures "applying a false trade mark under section 78 of the Trade and Merchandise Marks Act, 1958" shall be substituted;

(c) in clause (d), for the words and figures "marked with a counterfeit trade mark under section 466 of the Cochin Penal Code", the words and figures "to which a false trade mark or false trade description is applied under section 79 of the Trade and Merchandise Marks Act, 1958" shall be substituted.

23. *Substitution of new section for section 68.*—For section 68 of the principal Act, the following section shall be substituted, namely:—

"68. *Provisions of Code of Criminal Procedure and Indian Penal Code applicable to offences committed under the Act.*—The provisions of the Code of Criminal Procedure, 1898, relating to execution, so far as the same are applicable, and sections 67, 68 and 69 of the Indian Penal Code shall apply to all offences committed and to all persons punished under the provisions of this Act.".

24. *Amendment of section 69.*—In section 69 of the principal Act,—

(a) for the words "Cochin Sirkar Gazette,", the word "Gazette" shall be substituted;

(b) the words "provided that all such rules and notifications whereby the doing or the not doing of anything is made punishable shall be published in three successive issues of the said Gazette" shall be omitted.

25. *Amendment of Schedule.*—In the Schedule to the principal Act, the following shall be added at the end, namely:—

"Travancore Act IV of 1073	An Act to amend the law relating to the import, export, transport, etc., of intoxicating liquor and of intoxicating drugs.	The whole
Madras Act I of 1886 as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956	An Act to consolidate and amend the Abkari Law.	The whole".

26. *Amendment of the Kerala Police Act, 1960.*—For section 51 of the Kerala Police Act, 1960 (5 of 1961), the following sections shall be substituted, namely:—

"51. *Penalty for being drunk and for disorderly behaviour.*—Whoever in any street or public place or in any court, police station or other public office or in any place of public amusement or resort or on board any passenger boat or vessel or in any public passenger vehicle, is found drunk and incapable of taking care of himself or behaves in a disorderly manner under the influence of drink shall, on conviction, be punished,—

(a) for a first offence, with imprisonment for a term which may extend to one month and with fine which may extend to two hundred rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than fifteen days and fine shall not be less than fifty rupees; and

(b) for a subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees.

Explanation.—For the purposes of this section and section 51A, "public passenger vehicle" means a vehicle used for carrying passengers for hire or reward other than a vehicle which carries passengers for hire or reward under a contract express or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum.

51A. *Penalty for riotous or indecent behaviour in street, etc.*—Whoever in any street or public place or in any court, police station or other public office or in any place of public amusement or resort or on board any passenger boat or vessel or in any public passenger vehicle, is guilty of any violent, riotous, disorderly or indecent behaviour shall, on conviction, be liable to fine which may extend to fifty rupees or with imprisonment for a term which may extend to eight days, or with both.".

BHAGWAN SAHAY,

GOVERNOR.